



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

**OIL AND GAS DOCKET NO. 02-0289082**

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**THE APPLICATION OF BES ENVIRONMENTAL SERVICES, INC. FOR  
COMMERCIAL DISPOSAL AUTHORITY PURSUANT TO STATEWIDE RULE 9 FOR  
THE HOSKINS, W.B. LEASE, WELL NO. 1 SPEARY (ROEDER 9100) FIELD,  
KARNES COUNTY, TEXAS**

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**HEARD BY:** Karl Caldwell – Technical Examiner  
Laura Miles-Valdez – Legal Examiner

**DATE OF HEARING:** November 6-7, 2014

**APPEARANCES:**

**REPRESENTING:**

**APPLICANT:**

Olga Kobzar  
Joe Sanders II  
Keith Masters  
Tom Best

BES Environmental Services, Inc.

**PROTESTANT:**

Anatole Barnstone  
Kerry Pollard  
Robert Ray Elizondo

Robert Ray Elizondo

**EXAMINERS' REPORT AND RECOMMENDATION**

**STATEMENT OF THE CASE**

BES Environmental Services ("BES") requests authority pursuant to Statewide Rule 9 to operate a commercial disposal well. A commercial permit (Permit No. 13637) to operate the subject well in this application has been granted to BES by the Commission on two previous occasions. In Complaint No. 2013-047, Complainant Robert Ray Elizondo stated that he would be affected by the location of the offloading facility for the disposal well but had not received notice of the applied-for disposal

permit. On December 5, 2013, a hearing (Oil and Gas Docket No. 02-0284266) was held at the request of BES to provide BES the opportunity to show cause why its Disposal Permit No. 13637 (Commercial), for the Hoskins, W.B. Lease, Well No. 1, Speary (Roeder 9100) Field, Karnes County, should not be cancelled. On September 14, 2014, Permit No. 13637, granted to BES for the Hoskins, W.B. Lease, Well No. 1, Speary (Roeder 9100) Field, Karnes County, Texas, was terminated as *void ab initio* by Final Order, Oil and Gas Docket No. 02-0284266. BES stated that a revised application would be submitted to the Commission with corrected information and proper notice would be provided to all parties entitled to notice. Robert Ray Elizondo protested the application so it could not be approved administratively. At the call of the hearing on November 6, 2014, both the Applicant and Protestant requested a recess to discuss the proposed disposal well. After the recess, the Protestant stated that his protest was withdrawn. With no protest to the application, BES requested that the application be processed administratively. Since the application was given the same permit number (Permit No. 13637) that had been previously terminated in a Commission Final Order, BES requests that the permit be reinstated. The examiners recommend that Permit No. 13637 be reinstated, as requested by BES.

### **DISCUSSION OF THE EVIDENCE**

BES requests authority pursuant to Statewide Rule 9 to operate a commercial disposal well. A commercial permit (Permit No. 13637) to operate the subject well in this application has been granted to BES by the Commission on two previous occasions. On April 19, 2012, the Commission granted BES Permit No. 13637 (Commercial), for its W.B. Hoskins Lease, Well No. 1 in the Speary (Roeder 9100) Field in Karnes County, Texas, pursuant to Statewide Rule 9. In Complaint No. 2013-047, Complainant Robert Elizondo stated that he would be affected by the location of the offloading facility for the disposal well but had not received notice of the applied-for disposal permit. On December 5, 2013, a hearing (Oil and Gas Docket No. 02-0284266) was held at the request of BES to provide BES the opportunity to show cause why its Disposal Permit No. 13637 (Commercial), for the Hoskins, W.B. Lease, Well No. 1, Speary (Roeder 9100) Field, Karnes County, should not be cancelled. In the proposal for decision, (Oil and Gas Docket No. 02-0284266), BES' evidence included an acknowledgement that mistakes were made by a previously-employed consultant, and it was not the intent of BES to provide incorrect information to the Commission during the permitting process. BES stated that a revised application would be submitted to the Commission with corrected information and proper notice would be provided to all parties entitled to notice. The new application was received by the Commission, which was approved on January 30, 2014, and Permit No. 13637 was re-issued to BES.

On March 19, 2014, BES was notified by the Commission that the permit was issued in error and suspended in accordance with Statewide Rule 9(6)(A) as a protest to the application was received prior to the new application being filed with the

Commission, as the show cause hearing in Oil and Gas Docket No. 02-0284266 was inadvertently not associated with the new application. Since the new application was considered complete but protested, it could not be granted administratively.

On April 2, 2014, the Commission received a request from BES that a hearing be held on the new application, which is the subject docket (Oil and Gas Docket No. 02-0289082). On September 14, 2014, Permit No. 13637, previously granted to BES on April 19, 2012 for the Hoskins, W.B. Lease, Well No. 1, Speary (Roeder 9100) Field, Karnes County, Texas, was terminated as *void ab initio* by Final Order, Oil and Gas Docket No. 02-0284266.

The hearing on Oil and Gas Docket No. 02-0289082 on the new application submitted by BES was held on November 6<sup>th</sup> and 7<sup>th</sup> 2014. The Protestant, Robert Ray Elizondo, notified the Commission in writing on November 7<sup>th</sup>, 2014 that his protest to the application was withdrawn. BES requested that the application be processed administratively pursuant to Statewide Rule 3.9(5)(F) as there was no longer a protest from an affected person. Since Permit No. 13637 in this docket was terminated in a Commission Final Order, BES requests that the permit be reinstated, subject to the previous terms and conditions of the permit.

#### **FINDINGS OF FACT**

1. On April 19, 2012, the Commission granted BES Permit No. 13637 (Commercial), for its W.B. Hoskins Lease, Well No. 1 in the Speary (Roeder 9100) Field in Karnes County, Texas, pursuant to Statewide Rule 9.
2. On September 14, 2014, Permit No. 13637 was terminated as *void ab initio* by Final Order, Oil and Gas Docket No. 02-0284266 for failure to provide proper notice of the application to Robert Ray Elizondo.
3. BES re-submitted an application for the Hoskins, W.B. Lease, Well No. 1, Speary (Roeder 9100) Field, Karnes County, Texas.
4. A protest was received from Robert Ray Elizondo. As a result, the application could not be administratively approved.
  - A) BES requested a hearing on the application.
  - B) Notice of this hearing was provided to all persons entitled to notice.

- C) The hearing was held on November 6-7, 2014. At the call of the hearing on November 6, 2014, both the Applicant and Protestant requested a recess to discuss the application.
  - D) After the recess, the Protestant, Robert Ray Elizondo withdrew his protest to the application.
- 5. As a result of the protest being withdrawn, BES requested that the application be processed administratively.
  - 6. The current application was deemed to be administratively complete and a permit had been previously granted to BES, subject to special terms and conditions, which will be the terms and conditions of the new permit.
  - 7. The current application was assigned Permit No. 13637, the same permit number as the previous permit.
  - 8. Since Permit No. 13637 was terminated in a Commission Final Order, BES requests that Permit No. 13637 be reinstated.

### **CONCLUSIONS OF LAW**

- 1. Proper notice was issued as required by all applicable statutes and regulatory codes.
- 2. All things have occurred and been accomplished to give the Commission jurisdiction in this matter.
- 3. The application satisfies the requirements of Statewide Rule 9.

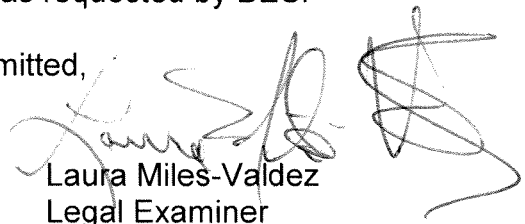
### **EXAMINERS' RECOMMENDATION**

Based on the above findings of fact and conclusions of law, the examiners recommend that the Commission reinstate Permit No. 13637 for the Hoskins, W.B. Lease, Well No. 1, Speary (Roeder 9100) Field, Karnes County, subject to special conditions and terms, previously approved by UIC, as requested by BES.

Respectfully submitted,



Karl Caldwell  
Technical Examiner



Laura Miles-Valdez  
Legal Examiner